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What Limitations Period Applies to a Suit Brought by a Union Member Against a Union under the LMRDA?

by Jay E. Grenig

G. P. Reed

v.

United Transportation Union, et al.
(Docket No. 87-1031)

Argument Date: Nov. 2, 1988

Title I of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) is sometimes referred to as the "Bill of Rights" for union members. Title I regulates internal union affairs and protects union members from un-democratic abuses by union leaders. In this case the Supreme Court is called upon to determine a rather technical question: whether a three-year state limitation period for personal injuries or a six-month federal limitation period for unfair labor practices should apply to Title I suits.

ISSUE

This case presents the question of what limitation period applies to a suit brought against a union by a union member alleging violations of rights under Title I of the LMRDA.

FACTS

G. P. Reed works for a bus company in Charlotte, N.C. For many years, he was also the secretary/treasurer of United Transportation Union, Local 1715. As secretary/treasurer, Reed received a small monthly salary from the Local. Because union duties sometimes require union officers to take time off from work without pay, Reed and other Local officers received reimbursement from the Local for lost time.

In 1982 an auditor for the national union disallowed checks paid by the Local to Reed for "time lost" in the amount of \$1,210.20. Reed paid the disallowed amount, but appealed the auditor's findings to the union president. Reed claimed that the re-payment had been demanded on the ground that he had to get prior approval for "losing" the time and doing the union work. He contended that no such prior approval requirement had existed or been enforced before its application to him. The union president responded that when a local officer is salaried, his regular salary is meant to cover the responsibilities of his office.

The union president concluded the disallowed payments

had been claimed for the performance of ordinary duties and responsibilities of Reed's office. When Reed subsequently sought to enforce the "prior approval" policy to requests for reimbursement by other Local officers, the union president ordered Reed to pay those claims.

Thereafter, in July 1983 Reed's attorney wrote the union, claiming that the heart of the conflict involved the Local president's harassment of Reed for not supporting the Local president's views. In August 1985 Reed filed suit under Title I of the LMRDA, claiming that the union and others had violated his rights to freedom of speech and assembly as a union member as well as his right to be safeguarded from improper disciplinary action.

The union filed a motion to dismiss the complaint on the ground that the complaint had not been filed within the required time period. The union asserted that the six-month limitation period provided by Section 10(b) of the National Labor Relations was applicable here. The trial court determined that the appropriate limitations period for a Title I claim was the three-year North Carolina statute governing personal injuries. Proceedings were stayed pending appeal. The United States Court of Appeal for the Fourth Circuit reversed the lower court and held that the six-month limitation period applied to Reed's claim 828 F. 2d 1066 (4th Cir. 1987).

BACKGROUND AND SIGNIFICANCE

Many federal statutes such as the LMRDA do not include an express limitation on the period within which an action under the statute must be brought. Rather than assuming Congress intended that there be no time limit on actions at all, the courts frequently "borrow" the most closely analogous statute of limitations under state law.

Where state statutes of limitation are unsatisfactory vehicles for the enforcement of federal law, the Supreme Court has held that it may be inappropriate to conclude that Congress would choose to adopt state rules at odds with the purpose or operation of federal substantive law. In such cases the courts have declined to borrow state statutes, but have, instead, used timeliness rules drawn from federal law—such as limitations periods from related federal statutes.

In *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. 151 (1983), the Supreme Court set out the considerations which must be met before a court departs from the practice of borrowing from the analogous state statute of limitations. Recognizing that resort to state law remains the

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norm for borrowing of limitations periods for federal causes of action, the Court stated that, when a rule from elsewhere in federal law clearly provides a closer analogy than do the available state statutes, and when the federal policies at stake and the practicalities of litigation make that rule a significantly more appropriate vehicle for interstitial lawmaking, the federal rule should be used.

Here, the Court must determine whether the six-month limitation period in Section 10(b) of the National Labor Relations Act provides a closer analogy than the state statute of limitations for personal injuries, and whether the federal policies at stake and the practicalities of litigation make that limitation period significantly more appropriate.

In addition to the Fourth Circuit, four other circuits have determined that the rationale of *DelCostello* is applicable to LMRDA "Bill of Rights" actions and have applied the six-month statute of limitations. The First and Second Circuits have refused to apply the six-month period and have applied state personal-injury limitations.

Some have suggested that selection of the six-month limitation period would be consistent with the national labor policy of quick resolution and finality of labor disputes, whether they occur internally or externally, while others have contended that the six-month limitations period would pose a threat to union members' access to judicial protection.

ARGUMENTS

For G. P. Reed (*Counsel of Record, Jonathan Wallas, 700 East Stonewall St., Suite 730, Charlotte, NC 28202; telephone (704) 375-8461*)

1. Claims under Title I of the LMRDA do not fit within the exceptions to the longstanding practice of borrowing

limitations periods from state law.

2. The litigation practicalities of Title I action militate against exceptions to the practice of borrowing limitations periods from state law.

For United Transportation Union (*Counsel of Record, Clinton J. Miller, III, 14600 Detroit Ave., Cleveland, OH 44107-4250; telephone (216) 228-9400*)

1. Uniformity is required with regard to a federal claim, which has a closely analogous federal limitations statute.
2. The lingering threat of assertion of Title I claims can have a debilitating effect within the union if allowed to fester, making speedy resolution all the more desirable in the practicalities of litigation.

AMICUS ARGUMENTS

In Support of G. P. Reed

The Association for Union Democracy and Public Citizen filed an amicus brief in support of G. P. Reed, asserting that the *DelCostello* rationale for borrowing a six-month period does not apply to LMRDA claims because the LMRDA claims do not pose an immediate or direct threat to labor peace or to labor-management compromises.

In Support of the United Transportation Union

The American Federation of Labor and Congress of Industrial Organizations filed an amicus brief in support of the United Transportation Union, asserting that the LMRDA's form and its *raison d'être* derive from the system of exclusive representation which is a unique, integral part of the national labor policy and has no analogue in ordinary state law.